

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 21

PACIFIC 9 TRANSPORTATION, INC.

and

Case 21-CA-116403; 21-CA-150875

INTERNATIONAL BROTHERHOOD OF  
TEAMSTERS

**ORDER REFERRING PETITION TO REVOKE**  
**SUBPOENA DUCES TECUM TO ADMINISTRATIVE LAW JUDGE**

A Petition to Revoke Subpoena Duces Tecum B-1-QX2UU5 having been filed with the Regional Director on March 29, 2016, by counsel for Respondent Pacific 9 Transportation.

**IT IS ORDERED**, pursuant to Section 102.31(b) of the Board's Rules and Regulations, that the Petition is hereby referred to the Administrative Law Judge for ruling.

Dated: March 30, 2016



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Olivia Garcia, Regional Director  
National Labor Relations Board, Region 21  
888 S Figueroa Street, Ninth Floor  
Los Angeles, CA 90017-5449

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5  
6 Attorneys for Respondent- PACIFIC 9  
TRANSPORTATION, INC.

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8 **UNITED STATES OF AMERICA**  
9 **BEFORE THE NATIONAL LABOR RELATIONS BOARD - REGION 21**

10  
11 PACIFIC 9 TRANSPORTATION, INC.

Case Nos. 21-CA-116403 & 21-CA-150875

12 and

**PETITION TO REVOKE SUBPOENA  
DUCES TECUM B-1-QX2UU5**

13 INTERNATIONAL BROTHERHOOD OF  
14 TEAMSTERS PORT DIVISION

15 Pursuant to Sec. 102.31(b) of the Boards regulations, Respondent Pacific 9 Transportation,  
16 Inc. hereby petitions to revoke the attached Subpoena Duces Tecum B-1-QX2UU5 dated March  
17 22, 2016 on the following grounds:

18 1. The Subpoena demands the production of documents which are overly private and  
19 confidential in nature and which would be overly burdensome to produce, including personnel  
20 files, pay records, and lease agreements pertaining to persons who have not consented to the  
21 production of such information and who are not parties to this dispute.

22 2. The Subpoena demands the production of documents which do not relate to any  
23 matter under investigation or in question in this proceeding, in that it requests documents for an  
24 overly broad time frame and which relate to drivers whose employee status is not in issue.

25 3. The Subpoena does not describe with sufficient particularity the documents for  
26 which production is sought.  
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**PROOF OF SERVICE**  
**(CODE CIV. PROC. § 1013A(3))**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 12800 Center Court Drive South, Suite 300, Cerritos, California 90703-9364.

On March 29, 2016, I served the following document(s) described as: **PETITION TO REVOKE SUBPOENA DUCES TECUM B-1-QX2UU5** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Olivia Garcia, Regional Director  
National Labor Relations Board, Region 21  
888 S. Figueroa, Ninth Fl.  
Los Angeles, CA 90017-5449  
Olivia.Garcia@nrlrb.gov

E-filing

Michael T. Manley, Esq.  
Intl. Br. of Teamsters Port Division  
25 Louisiana Ave. NW  
Washington, DC 20001  
MManley@teamster.org

Via e-mail

☐ **BY MAIL:** I deposited such envelope in the mail at Cerritos, California. The envelope(s) was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

☒ **BY EMAIL:** My electronic service address is csiler@aalrr.com. Based on a written agreement of the parties pursuant to California Code of Civil Procedure § 1010.6 to accept service by electronic means, I sent such document(s) to the email address(es) listed above or on the attached Service List. Such document(s) was scanned and emailed to such recipient(s) and email confirmation(s) will be maintained with the original document in this office indicating the recipients' email address(es) and time of receipt pursuant to CCP § 1013(a).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 29, 2016, at Cerritos, California.

  
Cathleen Siler

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**To Custodian of Records, Pacific 9 Transportation, Inc.2045 Carson Street, Unit B, Carson, California, 90810As requested by Michael T. Manley, International Brotherhood of Teamsterswhose address is 25 Louisiana Avenue, N.W., Washington, D.C. 20001

(Street)

(City)

(State)

(ZIP)

YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE an Administrative Law Judge

of the National Labor Relations Board

at Hearing Room 902, 888 Figueroa Street, Ninth Floor, Los Angeles, Californiain the City of Los Angeleson April 11, 2016 at 1:00 p.m., PDT or any adjournedor rescheduled date to testify in Pacific 9 Transportation, Inc., Cases 21-CA-116403 and 21-CA-150875  
(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

Attachment A

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**B-1-QX2UU5**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Los Angeles, CADated: March 22, 2016
  
Chair

**NOTICE TO WITNESS.** Witnesses for attendance at the hearing, and mileage for this subpoena are payable to the party at whose request the witness is subpoenaed. A witness appearing at the hearing of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

**PACIFIC 9 TRANSPORTATION INC  
CASE NO. 21-CA-116403, 21-CA-150875**

**SUPOENA ATTACHMENT A**

- (a) Whenever the term "Respondent" is used in this subpoena or any of its attachments, it is meant to refer to Pacific 9 Transportation Inc.
- (b) As used in this subpoena or any of its attachments, the term "document" or "documents" is used in a comprehensive sense and includes, without limiting the generality of its meanings, all written, typed, printed, recorded, transcribed, filed or graphic materials, however produced, copies or reproduced, of any kind and description whether they be denominated letters, correspondence, telegrams, notes, books, records, recordings, contracts, reports, memoranda, lists, logs, notebooks, handbooks, worksheets, ledgers, bid invitations, bids, financial statements, inventories, travel records, stenographic notes, handwritten notes, diary entries, desk entries, appointment books, news reports, periodicals, press releases, graphs, charts, transcriptions of tape recordings or other electronically recorded information or data, minute books, files, slides, disks, reels, tapes, photostats, negatives, photographs, microfilm, advertisements, reports to government bodies, agencies, officers, or courts, memorializations of conversations, including telephone conversations, memorializations of meetings, pre-printed forms, whether prepared by Respondent or prepared by others for Respondent's use and any other writing or physical objects, whatever their nature, upon which information or data is encoded, recorded or stored.
- (c) Whenever the phrase "supervisor" "supervisory personnel" or "person having supervisory authority" is used in this subpoena or any of its attachments it refers to any individual having authority, in the interest of Respondent, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline port drayage drivers, or responsibly direct them, or adjust their grievances or effectively recommend such action. This includes authority to cancel or renew leases and so called "independent contractor agreements"
- (d) Whenever the term "manager" is utilized in this subpoena or any of its attachments it refers to a person having authority or responsibility for formulating and effectuating policies and procedures regarding Respondent's business.
- (e) Whenever the phrase "port drayage driver" is used in this subpoena or any of its attachments it refers to a person employed or utilized by Respondent, as either an employee or independent contractor or any other capacity, to pick up, retrieve, deliver or otherwise move shipping containers to any destination in the Continental United States from the Ports of Los Angeles and Long Beach, as well as from the Ports of Los Angeles and Long Beach to any destination in the Continental United States.

- (f) Whenever appropriate in this subpoena or any of its attachments the masculine form shall be interpreted as feminine and vice-versa and the singular form shall be interpreted as plural and vice-versa.
- (g) Where appropriate, Respondent may, in lieu of producing the actual documents, produce a sworn affidavit, signed by the custodian of records, setting forth the information requested.
- (h) The requests herein are not intended to be duplicative. Where more than one document contains the information requested, Respondent need not produce every document containing the information, so long as the document produced contains all of the information in Respondent's possession regarding the subject subpoenaed.

### **INFORMATION TO BE PRODUCED**

- (1) All personnel files or similar files for each individual employed or utilized by Respondent, at any time, as a port drayage driver, on either a full or part-time basis, since January 1, 2013, up to and including the present date.
- (2) To the extent that Respondent does not maintain files identified in Question # 1, such documents which show the following information for each individual employed or utilized by Respondent, at any time, as a port drayage driver, on either a full or part-time basis, since January 1, 2013, up to and including the present date:
  - (a) Name, address and telephone number;
  - (b) Application or resume;
  - (c) Date of interview, if any;
  - (d) Name of person conducting interview;
  - (e) Date of hire;
  - (f) Date individual started work;
  - (g) Hours of work;
  - (h) Salary or wage rate and fringe benefits paid;
  - (i) Date employment terminated;
  - (j) Reason employment terminated.
- (3) Copies of all documents identifying the individuals or entities that hold an ownership interest in Respondent.
- (4) Copies of all documents describing Alan Ta's ownership interest in Respondent.
- (5) Copies of all documents describing the duties and responsibilities of Alan Ta with regard to the administration and operation of Respondent's business.

- (6) Copies of all correspondence sent by Alan Ta to any other person or entity on behalf of Respondent or received by Alan Ta with regard to Respondent's business between January 1, 2013 and April 30, 2015.
- (7) Copies of all documents describing Chris Hong's ownership interest in Respondent.
- (8) Copies of all documents describing the duties and responsibilities of Chris Hong's with regard to the administration and operation of Respondent's business.
- (9) Copies of all correspondence sent by Chris Hong to any other person or entity on behalf of Respondent or received by Chris Hong with regard to Respondent's business between January 1, 2013 and April 30, 2015.
- (10) Copies of all documents, including flowcharts and organization charts showing the organizational hierarchy and/or the department structure of Respondent, the names and titles of the persons holding any management positions or supervisory positions in that hierarchy since January 1, 2013. This request includes any changes in either the structure or identity of persons identified as managers or supervisor since January 1, 2013.
- (11) Copies of all letters, memoranda, emails or other documents given to port drayage drivers since January 1, 2013, up to and including the present date, regarding work rules, including, but not limited to, care, maintenance and operation of trucks, paperwork and interaction with customers and terminal operators, use and care of containers, fueling and fuel surcharges, insurance, Pier Pass, rate of pay or reimbursement, job performance, safety, dispatch or call-in procedures and any other rules and regulations or practices that Respondent expects port drayage drivers to follow while performing services for Respondent.
- (12) Copies of all forms, reports, records or other paperwork that Respondent requires its port drayage drivers to maintain or utilize when performing services for Respondent.
- (13) A copy of such documents as set forth the rate(s) Respondent pays persons employed or utilized by Respondent as port drayage drivers since January 1, 2013, up to and including the present date.
- (14) A copy of the memorandum dated March 28, 2014 and given to Respondent's port drayage drivers on or about the same date regarding the prior settlement agreement in Case 21-CA-116403.
- (15) A copy of the lease agreement(s) between Respondent and each person employed by Respondent as a port drayage driver since January 1, 2013, up to and including the present date.



- (16) A copy of the independent contractor agreement(s) between Respondent and each person employed by or utilized Respondent as a port drayage driver since January 1, 2013, up to and including the present date.
- (17) A copy of any agreements between Respondent and any person employed or utilized by Respondent as a port drayage driver to purchase a truck, tractor-trailer or other vehicle, entered into since January 1, 2013, up to and including the present date, including lease-to-own agreements.
- (18) A copy of all advertisements placed by Respondent in any publications, including internet advertisements and copy utilized on Respondent's website that describes the services and products offered by Respondent.
- (19) To the extent not already produced in response to other paragraphs herein, such documents as show the amount(s) paid by each person employed or utilized by Respondent as a port drayage driver, to purchase or lease a truck, tractor-trailer or other vehicle since January 1, 2013, up to and including the present date.
- (20) To the extent not already produced in response to other paragraphs herein, such documents as show the method(s), effective January 1, 2013 up to and including the present date, by which Respondent calculates compensation paid to persons employed or utilized by Respondent as port drayage driver.
- (21) Any and all documents, effective at any time since January 1, 2013 up to and including the present date, that describe job duties for dispatchers employed or utilized by Respondent.
- (22) Any and all documents relating to any claims for unemployment under the California Unemployment Insurance Program filed by persons employed or utilized by Respondent as port drayage drivers since January 1, 2012 up to and including the present date, including any determinations of eligibility for unemployment.
- (23) Any and all documents relating to any claims for California State Disability Benefits filed by persons employed or utilized by Respondent as port drayage drivers since January 1, 2012 up to and including the present date, including any determinations of eligibility for disability.
- (24) Copies of all *Order, Decision or Awards* issued by the California Division of Labor Standards Enforcement regarding wage claims filed by port drayage drivers against Respondent.
- (25) Copies of all determinations, decisions, findings or reports issued as a result of an audit of Respondent performed by the California Employment Development Department since January 1, 2012 up to and including the present date.

- (26) Copies of documents setting forth the qualifications required by Respondent for persons employed or utilized by Respondent as a port drayage driver.
- (27) To the extent not already produced in response to other paragraphs herein, all documents, including but not limited to, safety manuals, personnel manuals, statements of policy, notes or memoranda, dating from January 1, 2013, up to and including the present date, which relate to safety and safe work practices Respondent expects port drayage drivers to follow while performing services for Respondent.
- (28) To the extent not already produced in response to other paragraphs herein, a copy of any and all applications utilized by Respondent since January 1, 2013, to hire drivers.

## **STATEMENT OF SERVICE**


I hereby certify that a copy of **Order Referring Petition to Revoke Subpoena Duces Tecum B-1-QX2UU5 to the Administrative Law Judge** has been submitted by e-filing to the Division of Judges of the National Labor Relations Board on March 30, 2016, and that each party was served with a copy of the same document by e-mail.

I hereby certify that a copy of the **Order Referring Petition to Revoke Subpoena Duces Tecum B-1-QX2UU5 to the Administrative Law Judge** was served by e-mail, on March 30, 2016, on the following parties:

Ronald W. Novotny, Attorney at Law  
Thomas A. Lenz, Attorney at Law  
Atkinson Andelson Loya Ruud and Romo  
[rnovotny@aalrr.com](mailto:rnovotny@aalrr.com)  
[tlenz@aalrr.com](mailto:tlenz@aalrr.com)

Michael T. Manley, Staff Attorney  
International Brotherhood of Teamsters  
[mmanley@teamster.org](mailto:mmanley@teamster.org)

Respectfully submitted,

  
Aide Carretero  
Secretary to the Regional Attorney  
National Labor Relations Board  
Region 21